



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 6**

**1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733**

**AUG 17 2006**

Jay Carsten, Manager  
Environmental Cleanup II  
Remediation Division  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, TX 78711-3087

Re: Star Lake Canal Superfund Site, Jefferson County, TX  
Revised Remedial Investigation Work Plan

Dear Jay:

Recently Philip Allen on my staff received a July 21, 2006, letter from Sarah Schreier regarding the proposed work plan for the Star Lake Canal Superfund Site (Site). Ms. Schreier was conveying the comments of the Texas Commission on Environmental Quality (TCEQ) on the subject work plan. Her letter specifically addresses two issues: (1) Entrix's designation of the Texas Risk Reduction Program (TRRP) cleanup values as "guidance" criteria and (2) the need to address TRRP requirements for affected property assessment, human health risk assessment, exposure pathways, and chemicals of concern screening methods for the remedial investigation of the Site.

As you know, the Star Lake Canal Site is a federal Superfund Site on the National Priorities List, and is currently the subject of a response action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9601 and the National Contingency Plan, 40 C.F.R. Part 300. We appreciate TCEQ's views on whether the TRRP is an applicable or a relevant and appropriate requirement (ARAR) under CERCLA section 121, and have considered them carefully.

Under the National Contingency Plan, remedial alternatives are assessed to determine whether they attain applicable or relevant and appropriate requirements under federal environmental laws and state environmental or facility siting laws, 40 C.F.R. §300.430 (e)(9)(iii)(B). While potential ARARs are discussed prior to remedy selection, actual ARARs – cleanup standards or standards of control for remedial action – are finally selected in the Record of Decision. Under CERCLA, cleanup standards are often based on ARARs using the substantive provisions of federal and more stringent state environmental laws.

I believe a substantive standard of control should not be confused with a process used to come up with a cleanup level. Thus, state regulations normally would not be considered as ARARs where they address, as a procedural matter, a preferred method of conducting an affected property assessment, human health risk assessment, screening method, exposure pathway analysis, or other similar step in the remedy selection process.



Typically, potential ARARs and advisories, criteria, or guidance to be considered (TBCs) are discussed during the scoping of the Remedial Investigation/Feasibility Study (RI/FS), and the lead agency requests potential ARARs from the support agency no later than the time that site characterization data are available. After the original screening of alternatives, but prior to initiation of the comparative analysis conducted during the detailed analysis phase of the FS, the lead agency requests that the support agency communicate any additional requirements that are applicable or relevant and appropriate to the alternatives contemplated within 30 working days of receipt of the request. See 40 C.F.R. §300.515(h)(2). At the remedial investigation phase, the lead and support agencies are to "identify their respective *potential* ARARs related to the location of and contaminants at the site in a timely manner. The lead and support agencies may also, as appropriate, identify other pertinent advisories, criteria, or guidance in a timely manner" 40 C.F.R. §300.430(d)(3)(emphasis added). If TCEQ believes that there are *substantive* requirements of the Texas Risk Reduction Program that determine a cleanup standard or standard of control which is more stringent than a cleanup standard or standard of control derived from federal ARARs or risk assessments conducted in accordance with Risk Assessment Guidance for Superfund, then EPA would like to consider that information in arriving at a cleanup level under CERCLA section 121 that is protective of human health and the environment at this site.

CERCLA and the NCP provide for meaningful and substantial state involvement in hazardous substance response (see, e.g., 40 C.F.R. §300.500-525). I appreciate your and your staff's efforts along these lines and believe they are critical to achieving a protective remedy at this and other Superfund sites in Texas. In that regard, we look forward to working with TCEQ on this matter. Please contact me at 214.665.3162 if you have any questions.

Sincerely,



Gustavo Chavarria, Chief  
Project Management Section  
Arkansas/Texas Branch

cc: Sarah Schreier, TCEQ  
Ata-ur Rahman, TCEQ  
David Hastings, TCEQ  
Alan Batcheller, TCEQ